

Durham County Board of Health Rule

Regulation of Smoking on Durham County and the City of Durham Grounds; on the City of Durham Playgrounds and Athletic Fields and the Area surrounding the Playgrounds and Athletic Fields; in City or County Bus Stops; in the Durham Station Transportation Center; and on Sidewalks Abutting Hospital Grounds, the City of Durham Grounds and Durham County Grounds

Section I. Findings and Purpose

WHEREAS, Healthy North Carolina 2020 Tobacco Use Objectives are 1) decrease the percentage of adults who are current smokers, 2) decrease the percentage of high school students reporting current use of any tobacco product, and 3) decrease the percentage of people exposed to secondhand smoke in the workplace in the past seven days; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation; and

WHEREAS, the CDC advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

WHEREAS, tobacco is a recognized carcinogen in humans, and health risks associated with the use of tobacco products include myocardial infarction, stroke, and adverse reproductive outcomes; and

WHEREAS, in 2006, a report issued by the United States Surgeon General stated that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke and that secondhand smoke has been proven to cause cancer, heart disease, and asthma attacks in both smokers and nonsmokers; and

WHEREAS, the 2006 Surgeon General's Report also determined that children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma; and that smoking by parents causes respiratory symptoms and slows lung growth in their children; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity (such as sitting next to someone on a park bench, or children accompanying a smoking parent or guardian); and

WHEREAS, the CDC reports that smoking and smokeless tobacco use are frequently initiated and established during adolescence, that most people who begin smoking during adolescence are addicted by the age of 20, and that adolescent smokeless tobacco users are more likely than nonusers to become adult cigarette smokers; and

WHEREAS, everyday an estimated 3,900 young people between 12 and 17 years of age try their first cigarette and an estimated 1,000 youth become daily cigarette smokers; and

WHEREAS, children model adult behavior and benefit from positive models of non-smoking behavior and positive reinforcement of healthy lifestyle messages through exposure to smoke free public areas; and

WHEREAS, environmental organizations, including Keep America Beautiful, the Ocean Conservancy, and NC Big Sweep, consistently report cigarette butts as a leading cause of litter; and

WHEREAS, small children playing in city athletic fields and playgrounds are more likely to ingest cigarette butts if they are discarded and accessible; and

WHEREAS, the Durham County Health Department provides support to employees and residents who want to quit the use of tobacco products. Employees and residents are also encouraged to talk to their health care provider about quitting; ask about appropriate pharmacotherapy available through their health insurance plan or employee's insurer and to use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-8669); and

WHEREAS, on January 2, 2010, "An Act To Prohibit Smoking In Certain Public Places And Certain Places Of Employment," North Carolina Session Law 2009-27, became effective, authorizing local governments to adopt and enforce ordinances "that are more restrictive than State law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places;" and

WHEREAS, pursuant to G.S. 130A-39(a), local boards of health have the responsibility to protect and promote the public's health and to adopt rules necessary for that purpose; and

WHEREAS, the Durham County Board of Health wishes to minimize the harmful effects of tobacco use among Durham County and the City of Durham employees and eliminate secondhand smoke exposure for employees and the public in certain buildings and grounds controlled by the county and city; and

WHEREAS, the Durham County Board of Health is committed to protecting the health of children and adults on city athletic fields and playgrounds by eliminating exposure to secondhand smoke and providing an environment that decreases the likelihood of children ingesting cigarette butts; and

WHEREAS, Durham County and the City of Durham government buildings, health care facilities and health care facility grounds in Durham County, hospitals and hospital grounds in Durham County, and Durham County Schools are currently operating under smoke-free or tobacco-free policies; and this Board finds and declares that, in order to protect the public health and welfare, it is in the best interest of the citizens of Durham County to expand these smoke-free policies by adopting a rule prohibiting smoking on Durham County grounds; on the City of Durham grounds; on the City of Durham's playgrounds and athletic fields and the area surrounding the playgrounds and athletic

fields; in city or county bus stops; in the Durham Station Transportation Center; and on all sidewalks abutting Durham County grounds, the City of Durham grounds, and hospital grounds;

NOW, THEREFORE, THE DURHAM COUNTY BOARD OF HEALTH ADOPTS THE FOLLOWING RULES:

Section II. Definitions

The following definitions are applicable to this rule.

1. “Bus Stop” – A designated area, whether enclosed or unenclosed, where buses stop for passengers to board or exit a bus. This term shall include areas at bus stops and bus shelters, beginning at the bus stop sign or at either edge of the bus shelter and extending the length of the bus.
2. “City of Durham Grounds” – An unenclosed area owned, leased, or occupied by the City of Durham. For purposes of this rule, this term does not include those grounds located in the City of Durham Parks System except those areas which are further specified and defined by this rule.
3. “City of Durham Parks System Athletic Field” – Any enclosed or unenclosed area owned, leased, or occupied by the City of Durham that is part of the City of Durham Parks System and used for playing outdoor games, including but not limited to, baseball, basketball, tennis, football, and soccer. For purposes of this rule, this term shall include the entire playing area and the unenclosed area which extends 150 feet from all outside edges of the playing area, including but not limited to spectator areas or stands, concession stands, and team benches.
4. “City of Durham Park System Playground” – An enclosed or unenclosed area owned, leased, or occupied by the City of Durham that is part of the City of Durham Parks System and generally contains play equipment such as slides and swings and is used for recreation or play. For purposes of this rule, this term shall include the entire recreation area and the unenclosed area which extends 150 feet from all outside edges of the recreation area.
5. “City or County Bus Stops” - Any bus stop that is owned, leased, or occupied by the City or County of Durham.
6. “Durham County Grounds” – An unenclosed area owned, leased, or occupied by Durham County.
7. “Durham Station Transportation Center” – The buildings and unenclosed areas owned, leased or occupied by the City of Durham that are used as the hub and home of local, regional, and intercity bus service.
8. “Enclosed Area” – An area with a roof or other overhead covering of any kind and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.

9. "Hospital grounds" - Any unenclosed area, which is owned, leased, or occupied by an institution that is licensed to administer medical treatment or the primary function of which is to provide medical treatment in this State and which provides inpatient, outpatient, and emergency medical treatment.

10. "Sidewalk" - Any sidewalk that is owned, leased, or occupied by the City or County of Durham and abuts Durham County grounds, the City of Durham Grounds, or hospital grounds.

11. "Smoking". – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

12. "No Smoking Symbol" – Symbol consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it.

Section III Smoking Prohibited.

Smoking is prohibited in/on all of the following as referenced in the definitions above:

- (a) City of Durham Grounds;
- (b) City of Durham Parks System Athletic Fields;
- (c) City of Durham Parks System Playgrounds;
- (d) City or County Bus Stops;
- (e) Durham County Grounds;
- (f) Durham Station Transportation Center; and
- (g) Sidewalks as defined above.

Section IV. Actions to Implement Required

The City or County shall:

- (1) Educate the public about the rule and the reasons for the new rule prior to its implementation date through the news media, website, and educational media. This education shall include information on resources for quitting smoking or tobacco use, including information about the free quitting support services of the North Carolina Tobacco Use Quitline (1-800-QUIT-NOW (1-800-784-8669)).
- (2) Educate the employees of city and county facilities covered under this rule about this rule, the reasons for this rule, and how employees can assist with compliance prior to its implementation date. The city and county shall also provide the city and county employees with resources for quitting smoking or tobacco use, including information about the free quitting support services of the North Carolina Tobacco Use Quitline (1-800-QUIT-NOW (1-800-784-8669)).
- (3) Post Signs that meet all the requirements of Section V in the Durham Station Transportation Center; on the City of Durham Grounds; on Durham County Grounds; on City of Durham Parks System Athletic Fields and Playgrounds; on city or county bus stops; and on sidewalks.
- (4) Remove all ashtrays and other smoking receptacles from the Durham Station Transportation Center; the City of Durham Grounds; Durham County grounds; the

City of Durham Parks System Athletic Fields and Playgrounds; city or county bus stops; and sidewalks.

- (5) Have the person in charge of Durham County grounds; the City of Durham grounds; the City of Durham Parks System; city or county bus stops; the Durham Station Transportation Center; or sidewalks direct a person who is smoking in a prohibited area to cease and, if the person does not comply, contact the City of Durham Police Department or the Durham County Sheriff's Department.

Section V. Signage

The signs required in Section VI must:

- (a) State in English and Spanish that smoking is prohibited and include the "No Smoking" symbol.
- (b) Be of sufficient size to be clearly legible to a person of normal vision.
- (c) Be posted on Durham County and the City of Durham grounds including the City of Durham Parks System Playgrounds and Athletic Fields in locations and at intervals reasonably calculated to inform the employees and the public of the prohibition.
- (d) Be posted on sidewalks at intervals so as to reasonably inform the public of the prohibition.
- (f) Be posted in the Durham Station Transportation Center in locations and at intervals reasonably calculated to inform the public and employees of the prohibition.
- (g) Be posted on city or county bus stops in areas visible to the public.

Section VI. Compliance and Penalties

Violations by persons smoking in prohibited areas. Following oral or written notice by the person in charge of Durham County grounds; the City of Durham grounds; the City of Durham Parks System; city or county bus stops; the Durham Station Transportation Center; or sidewalks, or his or her designee, failure to cease smoking constitutes an infraction punishable by a fine of not more than fifty dollars (\$50.00). A citation may be issued by a sworn law enforcement officer. Conviction of an infraction under this section has no consequence other than payment of a penalty, and no court costs may be assessed.

Section VII. Public Education

Durham County and the City of Durham shall engage in a continuing program to explain and clarify the purposes and requirements of these rules to citizens affected by it and to city or county employees in their compliance with it. In doing so, the County and City may rely upon materials and information provided by the Durham County Health Department.

Section VII. Effective Date

These rules shall become effective _____ upon adoption by the Durham County Board of Health and upon adoption of this as an ordinance of the Durham Board of County Commissioners.

ADOPTED this

EFFECTIVE DATE:

SIGNED: _____.

| Adopted this _____ day of _____, 20____.